

STAFF REPORT AND RECOMMENDATION TO THE CLARK COUNTY PLANNING COMMISSION

TO: Clark County Planning Commission

FROM: Marty Snell, Planning Director

PREPARED BY: Jan Bazala, Planner II, extension 4499

SUBJECT: Amendments to the County's Home Business provisions and
"multifamily" zoning code

PC HEARING

DATE: March 19, 2015

REPORT PREPARATION

DATE: February 25, 2015

I. SUMMARY

Changes are proposed to two sections of Clark County Code (CCC) Title 40 as follows:

- 1) Amend the County's Home Business provisions (CCC Section 40.260.100) to remove the limit on the maximum number of non-resident employees for Major Home Businesses; and,
- 2) Amend the County's "multifamily" zoning code (CCC Section 40.220.020) to prohibit new single family detached dwelling developments in the R-12, R-18, R-22, OR-15, OR-18, and OR-22 zoning districts

II. BACKGROUND

1) Home Businesses. Currently, Major home businesses in the urban area are limited to 3 non-residential employees; major rural home businesses are allowed between 4 and 6 employees, depending on parcel size. The Board of County Councilor's office has proposed to increase the limit on non-residential employees for Major home businesses.

Limits on the size of home business structures and outdoor "activity areas" will remain. One on-site parking space will still need to be provided for each employee. Rural parcels that are at least 5 acres in size are allowed an activity area that is equivalent to two percent of the parcel size. To illustrate, a 5 acre site is allowed an

activity area of 4356 square feet. A 10 acre site would have an allowable activity area of 8712 square feet. The activity area includes all outside activities associated with the home business, including, but not limited to parking areas used for business vehicles and equipment, areas used for loading and unloading, worker or client parking areas, and areas used for outdoor storage.

All home businesses will still be subject to performance standards for noise, odors, smoke, glare, and vibration.

While many of the impacts of an increased number of employees can be limited, it should be noted that home business permits are not subject to Section 40.350.020, transportation concurrency. Further, traffic impact fees are not assessed.

Other developments that generate 10 or more peak hour trips are typically required to provide a traffic study to evaluate impacts to the county's road system. Generally speaking, 10 employees driving to or from a work site during regular morning or afternoon commute hours could generate 10 peak hour trips, which would trigger the need for a traffic study. Since the current limit is a maximum of 6 employees, it is logical that home businesses are not subject to CCC 40.350.020; however, if the number of non-resident employees were to exceed 10, it raises the question of whether impacts to traffic should be considered through the concurrency ordinance.

Staff has received a number of comment letters from citizens and the Neighborhood Associations Council of Clark County that object to raising the limits to the number of employees. See Exhibits 1-8. The Development and Engineering Advisory Board (DEAB) also provided a letter opposed to raising the limits. See Exhibits 9-11.

2) Single Family Detached Dwellings in the R and OR ("multifamily") districts.

Single family individual detached dwellings have been allowed in the Residential and Office Residential (often referred to as "multifamily") zoning districts since at least 1994. The minimum lot area for a single family detached home in the R-22 zone is 1,500 square feet, with a minimum lot width 25 feet. Separation between homes can be as little as 8 feet. Homes in these types of developments often have single car garages.

Townhomes (single family **attached** dwellings on separate lots) are also allowed in the "multifamily" zones, and have comparable lot areas and widths; however, townhomes share common side walls, giving them a more traditional "multifamily" character. The shared wall aspect eliminates some of the arguably wasted narrow space between homes and makes it easier to share driveways.

Both single family detached and single family attached developments on these types of narrow lots can have issues regarding the provision of on and off-site parking, driveway spacing affecting sidewalks and traffic, and solid waste pickup. In 2011, new code provisions intended to address these narrow lot issues were implemented, but few, if any developments have been constructed under the new code.

Community Planning staff provided information to further the discussion as to whether single family detached units should continue to be allowed in the Residential zones, summarized as follows:

- The Land Use Element of the county's comprehensive plan (page 1-12) does not list single family detached dwellings as an intended use in the Urban Medium Density Residential plan designation.
- Policy 2.7.1 states the following: "Provide opportunities for new development to occur. There shall be no more than 75 percent of any single product type of housing in any jurisdiction (e.g., single family detached residential)."
- Acreage totals for each zone, along with consideration of allowable density were compiled in a spread sheet. Only 3% of the residential zoning land base currently excludes single family detached units.

While analyzing the spreadsheet, staff acknowledges that it is difficult to precisely project the percentage of the amount of single family detached housing that is, or can be provided due to a number of variables. Within each single family or multifamily zone, the number of units can vary significantly because of the allowed range of housing density that is allowed in each zone. In addition, MX-zoned properties can provide primarily residential OR primarily commercial development (and further, up to 30% of the total of residential development in the MX zone can be single family detached). While it's difficult to put a firm number of single family detached units based on zoning and acreage, the 2007 Buildable Lands Monitoring Report shows that from 2000 to 2006 94% of housing units have been single family detached; from 2007 to 2014, 77% of housing units have been single family detached. See Exhibits 12 and 13.

The DEAB provided a letter opposed to removing single family detached as an allowed housing type in the Residential zones, citing that market preference and the need for affordable entry-level housing should dictate what type of housing is provided. See Exhibit 10.

III. PROCESS

In the fall of 2014 the Board requested that staff prepare code language to eliminate the cap on non-residential employees for Major home businesses and to prohibit single family detached homes in the R and OR ("multifamily") zones.

IV. COMMUNITY OUTREACH

On January 8, 2015, staff met with the Development and Engineering Advisory Board (DEAB) and also held a work session with the Planning Commission. Both the DEAB

and Planning Commission wanted more information, and the Planning Commission delayed hearing the two items until March, 2015.

The DEAB discussed the two code changes again at their February 5 meeting, and a second PC work session was held on March 5, 2015.

Approval of amended development regulations are subject to SEPA review. As such, a SEPA determination of non-significance was published in the "Reflector" newspaper on December 31, 2014. An environmental checklist with the potential ramifications of these code changes was sent to SEPA agencies, with a SEPA comment period deadline of January 15, 2015.

A legal notice of the March 19, 2015 Planning Commission public hearing was published in the "Reflector" newspaper on March 4, 2015.

As noted before, staff received a number of comment letters from citizens and the Neighborhood Associations Council of Clark County as well as the Development and Engineering Advisory Board.

IV. RECOMMENDATION

Staff requests the Planning Commission consider this proposal and forward a recommendation to the Board of County Councilors.

Note: proposed new text is double underlined; text proposed to be removed is ~~struck through~~

40.260.100.Home Businesses

G. Home Businesses – Major.

1. Home businesses that meet the standards in Section 40.260.100(D) and the following standards shall qualify as major home businesses:

a. In urban areas:

- (1) Use of up to nine hundred (900) square feet of an accessory structure;
- (2) ~~Maximum of three (3) nonresident employees, with a~~ One (1) additional parking space on-site for each nonresident employee;
- (3) Customers: up to twelve (12) on-site customers per day;
- (4) No outside storage;
- (5) No heavy equipment; no more than three (3) business-related vehicles;
- (6) Hours of operation: 7:00 a.m. to 8:00 p.m. for on-site businesses;
- (7) Incidental on-site retail sales only;

(8) Minimum lot size: ten thousand (10,000) square feet.

b. In rural areas:

(1) Accessory structures: see Table 40.260.100-1;

(2) ~~Employees: see Table 40.260.100-1, with one~~ One (1) additional parking space for each nonresident employee;

(3) Customers: see Table 40.260.100-1;

(4) Activity area, including outside storage: see Table 40.260.100-1;

(5) Vehicles/heavy equipment: see Table 40.260.100-1;

(6) Activity area: All outside activity must be located in a defined activity area that is visually screened from adjacent residences either by existing vegetation, terrain, or sight obscuring landscape/screening methods to at least an L3 standard as established in Section 40.320.010, and that is set back a minimum of fifty (50) feet from any property line. Except where terrain provides a sight-obscuring barrier, landscaping and screening shall be located on the subject property. Required landscaping and screening shall be the responsibility of the resident business owner;

(7) Hours of operation: 7:00 a.m. to 8:00 p.m. for on-site businesses;

(8) Incidental retail sales only;

(9) Minimum lot size: two and one-half (2.5) acres, including right-of-way to the extent permitted by Section 40.200.040(C) and/or de minimus standards set forth in Section 40.520.010(G). Calculations to determine eligible activity areas per Table 40.260.100-1 shall be determined based on lot sizes excluding public rights-of-way for perimeter streets.

2. Subject to Section 40.520.020, major home businesses qualifying under this subsection shall be reviewed using a Type II process as specified in Section 40.510.020, demonstrating that the proposal complies with all development and performance criteria in this section.

3. Applications for major home businesses on a private road shall include evidence that safety and maintenance impacts are adequately mitigated. Impacts to be addressed shall include, but are not limited to: dust, noise, trip generation, and road safety and maintenance.

4. New rural home businesses that include facilities for servicing motor vehicles are considered major, and shall meet the following standards:

a. An activity area of no more than two (2) percent of the parcel and landscaped and screened to an L3 standard (see Section 40.320.010);

b. A maximum accessory structure size of one thousand five hundred (1,500) square feet; and

c. Compliance with all building, fire, and environmental code regulations.

5. All structures used in home businesses shall be legally permitted at the time of receipt of a home business permit.

H. Performance Standards.

1. Home-based businesses shall comply with all state and county regulations governing nuisance effects, including Chapter 9.24, Nuisances, and with the following standards:

a. Noise. Home businesses shall comply with state maximum environmental noise levels as defined in Chapter 173-60 WAC.

b. Odors, Lighting, Glare, Dust, Smoke and Vibration. Home businesses shall not cause external effects such as offensive odors, increased lighting or glare, dust, smoke, or vibration detectable to normal sensory perception at the property line.

c. Electromagnetic Radiation and Line Fluctuation. Any business activities or use of equipment that creates visible or audible interference in radio or television receivers or fluctuations in line voltage at or beyond the property line is prohibited.

2. Any use of hazardous material or disposal of hazardous waste by home-based businesses shall comply with all applicable federal, state and local regulations. Home businesses shall not discharge any liquids or gases in violation of any federal, state or county regulations, including such discharges into private septic systems.

3. A home business permit shall be revoked pursuant to Chapter 32.12 should either of the following occur:

a. An applicant/operator relocates his or her residence.

b. The county finds that a home business has failed to comply with the general provisions and standards of this section or with the performance standards required by the permit.

Table 40.260.100-1. Rural Major Home Business Requirements						
Lot size (acres) ¹	≥ 2.5 & < 5	≥ 5 & < 7.5	≥ 7.5 & < 10	≥ 10 & < 15	≥ 15 & < 20	≥ 20
Maximum allowable use of accessory structures (sq. ft.) ²	2,500	3,000	3,500	4,000	4,500	5,000
Maximum number of nonresident employees ³	4	4	4	6	6	6
Maximum activity area ⁴	4,000 square feet	2% of parcel size	2% of parcel size	2% of parcel size	2% of parcel size	2% of parcel size
Maximum number of vehicles	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵
Maximum number of trailers	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵

Maximum number of pieces of heavy equipment	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵	No limit ⁵
Maximum average number of customer round trips per day	6	8	10	12	12	12

Footnotes:

¹ *Parcels in contiguous ownership may not be added together for purposes of determining parcel size.*

² *'Accessory structure' is defined in Section 40.100.070, and does not include an attached garage.*

³ *Includes contract employees and full-time employee equivalents.*

⁴ *As defined in Section 40.260.100(C)(4). Activity areas are to be calculated on the basis of lot sizes excluding public rights-of-way for perimeter streets.*

⁵ *Must be kept within the landscaped/screened activity area.*

40.220.020 Residential and Office Residential Districts (R, OR)

Table 40.220.020-1. Uses											
	R-12	R-18	R-22	R-30	R-43	OR-15	OR-18	OR-22	OR-30	OR-43	Special Standards
1. Residential.											
a. Accessory uses and structures normal to a residential environment	P	P	P	P	P	P	P	P	P	P	40.260.010
b. Accessory dwelling units	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	R/A ¹	40.260.020
c. Boarding houses	R/A	R/A	P	P	P	P	P	P	P	P	
d. Duplex dwellings	P	P	P	P	P	P	P	P	P	P	
e. Multifamily dwellings	P	P	P	P	P	P	P	P	P	P	40.260.150
f. Existing residential use	P	P	P	P	P	P	P	P	P	P	
g. Family day care centers	p ²	p ²	p ²	p ²	p ²	p ²	p ²	p ²	p ²	p ²	40.260.160
h. Adult family homes	P	P	P	P	P	P	P	P	P	P	40.260.190
i. Home business –	P	P	P	P	P	P	P	P	P	P	40.260.100

Type I											
j. Home business – Type II	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.100
k. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.050
l. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	C	C	C	C	C	C	C	40.260.050
m. Garage sales	P	P	P	P	P	P	P	P	P	P	40.260.090
n. Mobile home parks	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.140
o. Mobile homes on individual lots	R/A ⁴	R/A ⁴	R/A ⁴	X	X	R/A ⁴	R/A ⁴	R/A ⁴	X	X	40.260.130 40.520.020
p. Residential P.U.D.	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.520.020 40.520.080
q. Assisted living facilities	P	P	P	P	P	P	P	P	P	P	40.260.190
r. Single-family attached dwelling units (townhouses)	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.155
s. Single-family detached dwellings	R/A <u>X</u>	R/A <u>X</u>	R/A <u>X</u>	X	X	R/A <u>X</u>	R/A <u>X</u>	R/A <u>X</u>	X	X	40.260.155
t. Residential care homes and facilities	C	C	C	C	C	C	C	C	C	C	40.260.180
u. Cottage housing	P	P	P	X	X	P	P	P	X	X	40.260.073
v. Staffed residential homes	C	C	C	C	C	C	C	C	C	C	40.260.205

¹ An accessory dwelling unit may be allowed on any multifamily zoned lot developed with an existing single-family dwelling, except as noted in Section 40.260.020. Type I site plan review is required.

² Only in single-family residences.

³ See Table 40.260.250-1.

⁴ Some plats prohibit mobile homes; see Section 40.260.130 for additional information on possible restrictions.